

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7563 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SM RAVAL

Versus

JT DIRECTOR

Appearance:

MR ANANT S DAVE for Petitioner

MR DA BAMBHANIA,Addl. GP for the respondent authorities.

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 28/10/96

ORAL JUDGEMENT

Leave to file unaffirmed affidavit-in-reply.

Rule. Mr. D.A.Bambhania, learned Addl.GP appears for the respondent authorities and waives service of Rule. On the facts and in the circumstances of the case, the matter is taken up for final hearing to day.

2. Under order dated 20th April, 1992, the petitioner herein was given benefit of higher pay in the scale of Rs.1640-2900 with effect from 1st June, 1987 and his pay was fixed at Rs.2240/-. Under order dated 7th January, 1993, the petitioner was offered further higher grade. It is later on learnt that since the petitioner was not eligible for further promotion, to the post of Technical Assistant, he was not entitled to higher grade of Rs.1640-2900. In view of the Government Resolution dated 16th August, 1994, it was found that the petitioner was not entitled to further higher grade which was offered to him under order dated 7th January, 1993. Thus, having reconsidered the issue, respondent No.1 under its order dated 21st February, 1995, withdrew benefit of higher grade offered earlier to the petitioner and directed to recover the amount of difference of salary. It is this order dated 21st February, 1995 which is the subject matter of challenge in this petition. Mr.. Dave has submitted that the petitioner once having been offered benefit of higher grade and pay on higher grade having been fixed, same should not have been withdrawn without affording an opportunity of hearing to the petitioner or without affording him to show cause. Mr. Bambhaniya, learned Addl.GP concedes that such opportunity was not afforded to the petitioner.

3. In above view of the matter, the impugned order dated 21st February, 1995 Annexure "A" to the petition is hereby quashed and set aside. It is, however, clarified that the respondents shall be at liberty to make necessary orders in accordance with law after affording opportunity to the petitioner to show cause as to why the benefit of higher grade given to the petitioner shall not

be withdrawn. This order is made without prejudice to the rights and contentions of either of the parties to this petition. The petition is allowed to the aforesaid extent. Rule is made absolute. There shall be no order as to costs.

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